UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/304/Add.20
23 April 1997

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fiftieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

United Kingdom of Great Britain and Northern Ireland

1. The Committee considered the fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/299/Add.9) at its 1185th and 1186th meetings (CERD/C/SR.1185 and 1186), held on 3 and 4 March 1997. At its 1204th and 1209th meetings, held on 14 and 19 March 1997, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to continue its dialogue with the State party. It also welcomes its fourteenth periodic report, and notes with appreciation that information on Crown Dependencies and Dependent Territories is contained therein. The Committee notes with great appreciation that the report provides answers in detail to concerns expressed and recommendations made by the Committee in its concluding observations following the consideration of the thirteenth periodic report of the State party (see documents CERD/C/263/Add.7 and A/51/18, paras. 219-255). The Committee further welcomes the comprehensive answers provided by the delegation in the course of the dialogue.

3. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of making such a declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

4. It is noted that the position maintained by the Government with regard to the non-incorporation of the full substance of the Convention within the domestic legal order, as well as its restrictive interpretation of the provisions of article 4 of the Convention, may hamper the full implementation of the provisions of the Convention.

5. Moreover, it is noted that the occurrence of racism and racially motivated attacks, as well as incidents directed against members of ethnic minorities, impede the implementation of the Convention.

C. Positive aspects

6. The various measures taken to increase the participation of members of ethnic minorities in public and government office and in the police are welcomed by the Committee. The adoption of the Housing Act 1996 to combat racial discrimination in the field of housing, the setting up of lay visiting schemes which encompass inspection and supervision of detention in police stations by members of local communities to prevent and combat ill-treatment in custody, the drafting of changes to the code of practice which regulates police powers and procedures in the exercise of stop and search exercises, the creation of a Racial Incidents Standing Committee to implement the report of the Racial Attacks Group to combat racially motivated incidents, and the adoption of a 10-Point Action Plan to raise the achievement of ethnic minority pupils following the publication of a report by the Office for Standards in Education are noted with appreciation by the Committee.

7. With respect to article 7 of the Convention, the holding of seminars and the setting up of training programmes for judges, magistrates and law enforcement officials, provided in particular by the Ethnic Minorities Advisory Committee and the Police Training Centres, which are aimed at the elimination of racial discrimination from the relationships between members of these professions and members of ethnic minorities, are welcomed by the Committee. The launching of a number of information campaigns against racial discrimination addressed to the public at large or to specific sectors of the public (such as the "Lets kick racism out of football" campaign) is also welcomed by the Committee.

8. The adoption of the Race Relations (Northern Ireland) Order 1997 is noted, all the more so since it contains special provisions relating to the Irish Traveller communities. The fact that direct access to the courts and industrial tribunals is granted for violations of the provisions of the Order outlawing racial discrimination in the fields of employment, training, education and housing and in the provision of goods and services is also welcomed by the Committee.

9. It is noted with satisfaction that, in accordance with the Committee's recommendations, the United Kingdom Government requested the authorities of the Crown Dependencies and the Dependent Territories to consider the introduction of specific legislation against racial discrimination within their respective legal orders, and that to this effect, it provided them with

draft model legislation in line with its Race Relations Act 1976. It is further noted with satisfaction that some of these authorities have acceded to that request, i.e. those of Anguilla, Bermuda, the British Virgin Islands, the Falkland Islands and Saint Helena.

10. The adoption of the British Nationality (Hong Kong) Bill, which grants the right to members of ethnic minorities in Hong Kong who have no other nationality than their present British nationality to be registered as full British citizens, and thus to enjoy the right of abode in the United Kingdom, is noted with appreciation by the Committee.

11. It is also noted with satisfaction that, after 140 years, equal status has been accorded to Chinese with English in the Hong Kong courts at all levels, and that the Hong Kong government is undertaking the translation into Chinese of all the laws adopted in Hong Kong before 1989.

12. It is noted with satisfaction that the Hong Kong government is now providing education up to the secondary level to Vietnamese migrants in Hong Kong, and that education services are provided to all Vietnamese children in the detention centres free of charge. The fact that the syllabus takes into account the future reintegration of these children into the Vietnamese education system on their return to Viet Nam is viewed as a positive measure by the Committee.

D. Principal subjects of concern

13. Concern is expressed that full effect has not been given to the provisions of the Convention within the domestic legal order, and that individuals cannot be protected from any discriminatory practices that have not been prohibited by Parliament.

14. Special concern is again expressed at the restrictive interpretation by the Government of the provisions of article 4 of the Convention. In this regard, it is noted that such an interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention to prohibit organizations which promote and incite racial discrimination and to declare the participation therein an offence and is not in accord with the Committee's General Recommendation No. XV (42).

15. Concern is expressed that the race relations legislation concerning Northern Ireland tabled in Parliament contains two grounds for exemption, namely public order and public safety, which are additional to the ones already enshrined in the Race Relations Act of 1976, and that bodies working in the field of health, education, social services, planning and housing do not have the same positive legal duty to eliminate discrimination as that which applies to local authorities in Britain.

16. Concern is expressed by the Committee with respect to the continuing failure to incorporate questions relating to the racial or ethnic origin of persons in the Northern Ireland population census questionnaires. The Committee is of the view that the identification of minority groups and the analysis of their civil, political, economic and social status are a precondition for identifying the difficulties that they may be facing and for

assessing whether and how such difficulties may be due to racial discrimination, and thus for evaluating the need to adopt specific measures, laws and regulations to overcome those difficulties.

17. With respect to the effective enjoyment of the rights provided for in article 5 of the Convention by all parts of the population without discrimination, concern is expressed at remaining instances of racial discrimination in the field of employment, notably the opportunities for professional promotions, in the private as well as in the public sectors, in the fields of housing and education, in the exercise of stop and search powers by the police, and with respect to occurrences of ill-treatment by the police.

18. It is noted with concern that the implementation of some of the provisions of the Asylum and Immigration Act 1996 may be detrimental to the protection of asylum seekers against any racial discrimination. In this regard, particular concern is expressed at the fact that asylum claims may a priori be considered to be unfounded, and thus be dealt with more swiftly, when the claimants come from certain countries considered by the United Kingdom not to "generally give rise to a serious risk of persecution", and at the fact that no right of in-country appeal is granted to asylum seekers sent back to certain safe third countries. Moreover, while noting the assurances provided in the report that the Asylum and Immigration Act 1996 in itself will not affect the United Kingdom's obligations under the Convention, it is underlined that the definition of racial discrimination under article 1, paragraph 1, of the Convention includes the effect as well as the purpose of an act, and it is thus noted that the Asylum and Immigration Act 1996, in its effects, may be contrary to the Convention.

19. Concern is also expressed that specific legislation against racial discrimination is not yet available in all the Dependent Territories and Crown Dependencies, and that in some cases such legislation should be deemed unnecessary by the relevant authorities on the ground of the alleged non-existence of racial discrimination in the territories.

20. The absence of a provision in the Hong Kong Bill of Rights Ordinance protecting persons from racial discrimination to which they may be subjected by private persons, groups or organizations is a matter of concern for the Committee. In this regard, it is stressed that article 2, paragraph 1 (d), of the Convention makes it an obligation for States parties to prohibit, including by the adoption of legislation, racial discrimination "by any persons, groups or organizations".

21. With respect to the "two-week rule" applying to foreign workers in Hong Kong which prohibits them from seeking employment or remaining in Hong Kong more than two weeks after the expiration of their employment contracts, concern is expressed that such a rule may have discriminatory effects, since it applies mostly to domestic workers of Filipino origin, and that it may leave the workers concerned extremely vulnerable and in precarious conditions.

E. Suggestions and recommendations

22. The Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order.

23. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as noted in its General Recommendation VII (32). The Committee stresses that the United Kingdom should again consider the possibility of adopting the necessary legislation as requested by the provisions of article 4. In doing so, the Government should take into account the Committee's General Recommendation XV (42).

24. The Committee recommends that questions relating to the racial or ethnic origin of persons be incorporated in the questionnaires established within the framework of the population census in all the territories under the jurisdiction of the United Kingdom. In this regard, the Committee stresses that such information is useful for the effective assessment of progress achieved towards the full implementation of the provisions of the Convention for the benefit of all groups of the population.

25. The Committee recommends that the United Kingdom continue and strengthen its efforts towards the full enjoyment by all ethnic groups of all the rights provided for in article 5 of the Convention. The Committee recommends in particular that close attention be given to the issue of the deaths in police custody and to the monitoring of the conditions and the treatment of persons detained in police stations.

26. The Committee suggests that in its next report the State party include, for a recent year, (a) a review of the number of cases commenced under the Race Relations Act 1976 and their outcomes; and (b) information on the number of prosecutions for offences of a racist character, with an indication of sentences imposed in representative cases.

27. The Committee further recommends that the implementation of the Asylum and Immigration Act 1996 be closely monitored, so as to avoid any possible discrimination against certain categories of asylum seekers and to ascertain that its effects may in no way "nullify or impair the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms" of the persons affected by this Act, in accordance with article 1, paragraph 1, of the Convention.

28. The Committee also recommends that further consideration be given by the authorities of Guernsey, Jersey, the Isle of Man, the Cayman Islands, Montserrat and the Turks and Caicos Islands to the adoption of specific legislation prohibiting racial discrimination, in line with the provisions of the Convention. Noting that racial discrimination is deemed not to exist in some territories, the Committee suggests that the preventive function of the principles laid down in the Convention be given priority in the drafting of any future legislation.

29. The Committee also recommends that special attention be given by the government of Hong Kong to the situation of the foreign workers subject to the "two-week rule" and that all the necessary measures, including the modification or repeal of this specific rule, be undertaken to ensure the protection of all their rights under the Convention.

30. The Committee further recommends that the fourteenth periodic report of the State party, as well as the present concluding observations, be given publicity and be widely disseminated among the public at large.

31. The Committee recommends that the State party's next periodic report, due on 7 March 1998, be a comprehensive report and that it address all the points raised during the consideration of the report.

- - - - - - - -